

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In Re: Methyl Tertiary Butyl Ether ("MTBE")  
Products Liability Litigation

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**Master File No. 1:00 - 1898  
MDL 1358 (SAS)  
M21-88**

Civil Action

**This Document Relates To:**

*Commonwealth of Puerto Rico, et al. v.  
Shell Oil Co., et al.*, No. 07 Civ. 10470

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**DECLARATION OF MICHAEL D. AXLINE IN SUPPORT OF PLAINTIFF'S  
OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT  
BASED ON THE SOPHISTICATED INTERMEDIARY DEFENSE**

I, Michael D. Axline, hereby declare:

1. I am counsel of record for plaintiff Commonwealth of Puerto Rico and the Commonwealth of Puerto Rico through the Environmental Quality Board (“EQB”) in this matter. I make this declaration based on my personal knowledge, and if called as a witness I could and would competently testify thereto.

2. Attached as Exhibit 1 are true and correct copies of excerpts from the deposition transcripts of (a) Yamira Rivera taken on August 14, 2013, (b) Dario Enrique Amadeo-Cedo taken on August 13, 2013, (c) Brenda Torano taken on September 26, 2013, and (d) Carlos Cuevas taken on May 7, 2013, and Exhibit 4 thereto.

3. Attached as Exhibit 2 are true and correct copies of excerpts from the deposition transcripts of (a) Miguel A. Torres-Hernandez taken on July 8, 2013, (b) Miguel Torres taken on May 8, 2013, and Ex. 8 thereto, and (c) Hector E. Berrios taken on May 9, 2013.

4. Attached as Exhibit 3 are true and correct copies of excerpts from the deposition transcripts of (a) Carlos Figueroa-Lebron taken on December 5, 2013, (b) Ricardo L. Casas-Lomba taken on May 6, 2014, and (c) Augustos Munoz taken on May 7, 2014.

5. Attached as Exhibit 4 are true and correct copies of excerpts from the deposition transcripts of (a) Angel Rivera-Agostini taken on June 11, 2013, and (b) Jose De La Rosa taken on September 12, 2013.

6. Attached as Exhibit 5 are true and correct copies of (a) the Declaration of Jan Carlos Rodriguez-Munoz dated November 26, 2013, and (b) excerpts from the expert report of Leonardo Giacchino, Ph.D., titled “Supplies of Gasoline to Total Petroleum Puerto Rico Corp’s Service Station 1012 in Puerto Rico” prepared by Solutions Economics, LLC, dated April 8, 2014.

7. Attached as Exhibit 6 are true and correct copies of excerpts from the deposition transcripts of (a) Margaret King taken on October 24, 2013, and (b) Enrique Veglio-Matos taken on July 9, 2013.

8. Attached as Exhibit 7 are true and correct copies of excerpts from the deposition transcripts of Antonio R. Pavia (a) taken June 12, 2013, and Exhibit 4 thereto and (b) taken on July 11, 2013.

9. Attached as Exhibit 8 are true and correct copies of excerpts from (a) Aug. 12, 1991, Memorandum, TIP Letter #237, MTBE Effects [CHEV 09564-09567], (b) June 11, 1986, Memorandum, from D.W. Callahan, San Francisco, CA, to O.T. Buffalow, re Marketing Environmental Concerning Regarding the use of MTBE in MOGAS, (c) Dec. 30, 1986, Memorandum re MTBE, (d) March 26, 1991, Memorandum, Chemical Entry Review for MTBE, (e) Solving Problems from MTBE Contamination - It's Not Just Regulating Underground Tanks. (f) April 27, 1995, Memo re MTBE in Ground Water Issue, and (g) Oct. 17, 2005, Letter from W. Hughes to R. Greenwald.

10. Attached as Exhibit 9 are true and correct copies of (a) May 13, 1998, Email from C. Stanley to C. Parkinson, (b) Nov. 3, 1998, Email from C. Stanley to J. Pedley, (c) July 14, 1993, Email from C. Stanley to D. McGill, (d) May 14, 1998, Email from C. Stanley to K. Bell, et al., (e) Feb. 2, 1999, Email from C. Stanley to F. Benton, (f) excerpts from the deposition transcript of Curtis Stanley taken in *South Tahoe Public Utility District v. Atlantic Richfield Company, et al.*, Superior Court of California, County of San Francisco, Case No. 999128, on May 6, 1999, (g) Oct. 17, 2005, Letter from P. Condrón to R. Greenwald; (h) excerpts from the deposition transcript of Carson Conaway taken in *South Tahoe Public Utility District v. Atlantic Richfield Company, et al.*,

on Nov. 17, 2000, (i) excerpts from the deposition transcript of Patrick Tomlinson taken in *South Tahoe Public Utility District v. Atlantic Richfield Company, et al.*, on June 29, 2000, (j) excerpts from the deposition transcript of Ian Charman taken Nov. 21, 2013, and Ex. 2 thereto.

11. Attached as Exhibit 10 are true and correct copies of excerpts from (a) MTBE Release Source Identification at Marketing Sites, A Study Conducted for EUSA ESD by Exxon Research & Engineering Company dated 3/30/99, and (b) deposition transcript of Frederick M. Anderson taken in *South Tahoe Public Utility District v. Atlantic Richfield Company, et al.*, on August 4, 2000, and Exhibit 6-A thereto.

12. Attached as Exhibit 11 are true and correct copies of excerpts from the deposition transcript of Jack Spell taken in *South Tahoe Public Utility District v. Atlantic Richfield Company, et al.*, on April 13, 2000, and Exhibit 4 thereto.

13. Attached as Exhibit 12 are true and correct copies of excerpts from the deposition transcript of Barbara Mickelson taken in *South Tahoe Public Utility District v. Atlantic Richfield Company, et al.*, on January 13, 2000, and Exhibits 5 and 8 thereto.

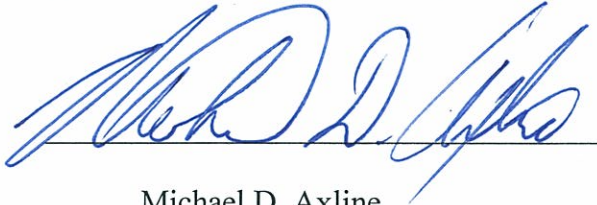
14. Attached as Exhibit 13 are true and correct copies of excerpts from the deposition transcript of Thomas Richard Eizember taken in *South Tahoe Public Utility District v. Atlantic Richfield Company, et al.*, on August 1, 2000.

15. Attached as Exhibit 14 are true and correct copies of (a) excerpts from the deposition transcript of Noel Vance Wood, III, taken in *In Re: MTBE MDL* (MDL No. 1358) on June 28, 2006, and (b) a true and correct copy of the Corporate Disclosure Statement for Hess Oil Virgin Islands Corporation, "HOVIC," dated and served on May 7, 2009.

16. Attached as Exhibit 15 are true and correct copies of Material Safety Data Sheets ( HESS 236660-236667 and HOVENSA 090037-090043).

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed this 7<sup>TH</sup> day of November, 2014, at Sacramento, California.

A handwritten signature in blue ink, appearing to read "Michael D. Axline", is written over a horizontal line.

Michael D. Axline

**PROOF OF SERVICE VIA LEXISNEXIS FILE & SERVE**

*Commonwealth of Puerto Rico, et al. v. Shell Oil Co., et al.*, United States District Court,  
Southern District of New York Case No. No. 07 Civ. 10470 (SAS)

I, the undersigned, declare that I am, and was at the time of service of the paper(s) herein  
referred to, over the age of 18 years and not a party to this action. My business address is 1050  
Fulton Avenue, Suite 100, Sacramento, CA 95825-4225.

On the date below, I served the following document on all counsel in this action  
electronically through LexisNexis File & Serve:

**DECLARATION OF MICHAEL D. AXLINE IN SUPPORT OF PLAINTIFF'S  
OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT  
BASED ON THE SOPHISTICATED INTERMEDIARY DEFENSE**

I declare under penalty of perjury under the laws of the United States of America and the  
State of California that the foregoing is true and correct.

Executed on November 7, 2014, at Sacramento, California.

  
KATHY HERRON